MONTANA LEGISLATIVE HISTORY

Chapter 490 ~~19~~ 2001

Bill H 116 S _____ Original bill & history ✓ C

H. Committee on State Adm		S. Committee on State Adm	
Hearing Date(s) 2/16	✓ C	Hearing Date(s) 3/8	✓ C
	___ C	3/15	✓ C
	___ C		___ C
	___ C		___ C
Date Out	___ C		

Did this bill originate in an interim committee? ___ Yes ✓ No

Committee _____ Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendent information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

490 *(House Bill No. 116; Mood)* GENERALLY REVISING THE DEFINED CONTRIBUTION PLAN PROVISIONS UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; COMPLYING WITH INTERNAL REVENUE CODE REQUIREMENTS; LIMITING LIABILITY; REVISING THE ALLOCATION OF CURRENT CONTRIBUTIONS TO AN EDUCATION FUND; REVISING HOW FAMILY LAW ORDERS AND EXECUTION OF WITHHOLDING AND SUPPORT OBLIGATION ORDERS MAY BE APPLIED; REVISING THE USE OF FORFEITURES; MAKING CONTRACTED SERVICES DISCRETIONARY; CLARIFYING PLAN CHOICE PROVISIONS FOR UNIVERSITY EMPLOYEES; ELIMINATING A PROHIBITION ON REJOINING THE DEFINED BENEFIT PLAN UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REVISING THE INTEREST CREDITED ON AMOUNTS TRANSFERRED TO THE DEFINED CONTRIBUTION PLAN; CLARIFYING TRANSFER AND ROLLOVER PROVISIONS; REVISING MINIMUM ACCOUNT BALANCE PROVISIONS; REVISING CERTAIN PROVISIONS OF THE OPTIONAL RETIREMENT PROGRAM; AMENDING SECTIONS 19-2-303, 19-2-401, 19-2-907, 19-2-909, 19-2-1001, 19-2-1002, 19-2-1003, 19-2-1004, 19-2-1005, 19-2-1006, 19-2-1007, 19-3-2101, 19-3-2102, 19-3-2111 19-3-2112, 19-3-2113, 19-3-2114, 19-3-2115, 19-3-2116, 19-3-2117, 19-3-2121, 19-3-2122, 19-3-2123, 19-3-2124, 19-3-2125, 19-3-2126, 19-3-2133, 19-21-101, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA, AND SECTIONS 79 AND 81, CHAPTER 471, LAWS OF 1999; AND PROVIDING EFFECTIVE DATES. 2364

491 *(House Bill No. 118; Clancy)* REVISING THE CLEAN AIR ACT OF MONTANA; ALLOWING THE SMALL BUSINESS STATIONARY SOURCE REPRESENTATIVE TO BE LOCATED WITHIN A NONREGULATORY PROGRAM OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; LIMITING THE PURPOSES FOR WHICH THE DEPARTMENT MAY USE INFORMATION OBTAINED BY THE SMALL BUSINESS STATIONARY SOURCE REPRESENTATIVE; REMOVING A REQUIREMENT THAT THE DEPARTMENT ACT ON OPERATING PERMIT APPLICATIONS BY NOVEMBER 15, 1997; AMENDING SECTIONS 75-2-109 AND 75-2-218, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE 2395

492 *(House Bill No. 120; McKenney)* GENERALLY REVISING PROFESSIONAL LICENSING LAWS; ELIMINATING THE TWO CONSECUTIVE TERM LIMIT FOR ALTERNATIVE HEALTH CARE BOARD MEMBERS; ALLOCATING THE BOARD OF PSYCHOLOGISTS TO THE DEPARTMENT OF COMMERCE FOR ADMINISTRATIVE PURPOSES; REQUIRING SCREENING PANELS TO PUT CERTAIN FINDINGS IN WRITING; CLARIFYING WHEN BOARD MEMBERS MAY FILE COMPLAINTS WITH THEIR BOARD; REQUIRING THAT NOTICES FOR HEARINGS BE BASED ON WRITTEN FINDINGS OF POSSIBLE VIOLATIONS; INCREASING THE NUMBER OF MEMBERS ON THE BOARD OF REAL ESTATE APPRAISERS AND CLARIFYING REQUIREMENTS FOR SCREENING PANELS; ELIMINATING CERTAIN REQUIREMENTS FOR CERTAIN MEMBERS OF THE BOARD OF REAL ESTATE APPRAISERS; CLARIFYING REQUIREMENTS FOR MEMBERS OF THE BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS; REPEALING THE LICENSE FEE EXEMPTION FOR PERSONS IN MILITARY SERVICE; PROVIDING A GENERAL DEFINITION OF "QUORUM" FOR BOARDS AND ELIMINATING INDIVIDUAL BOARD DEFINITIONS OF "QUORUM"; PROVIDING THAT MENTAL INTENT IS NOT A PREREQUISITE TO UNPROFESSIONAL CONDUCT; ELIMINATING

3/20	Chapter Number Assigned Chapter Number 78 Effective Date: 3/20/2001 - All Sections		

HB 115 Introduced by Shockley *LC0112 Drafter: Petesch*

Clarify Weapon Enhancement Statute

By Request of Law, Justice, and Indian Affairs Interim Committee

12/21	Introduced		
12/28	Referred to Judiciary		
1/11	Hearing		
1/11	Committee Executive Action--Bill Passed	20	0
1/12	Committee Report--Bill Passed		
1/13	2nd Reading Passed	100	0
1/15	3rd Reading Passed	96	0
	Transmitted to Senate		
1/16	Referred to Judiciary		
2/01	Hearing		
2/01	Committee Executive Action--Bill Concurred	9	0
2/01	Committee Report--Bill Concurred		
2/02	2nd Reading Concurred on Voice Vote	45	0
2/03	3rd Reading Concurred	42	0
	Returned to House		
2/05	Sent to Enrolling		
2/05	Returned from Enrolling		
2/05	Signed by Speaker		
2/06	Signed by President		
2/06	Transmitted to Governor		
2/14	Signed by Governor		
2/15	Chapter Number Assigned Chapter Number 16 Effective Date: 10/01/2001 - All Sections		

HB 116 Introduced by Mood *LC0310 Drafter: Heffelfinger*

Generally Revise the Pers Defined Contribution Retirement Plan

By Request of Public Employees' Retirement Board

12/19	Introduced		
12/26	Fiscal Note Requested		
12/28	Referred to State Administration		
1/09	Fiscal Note Received		
1/11	Fiscal Note Printed		
2/16	Hearing		
2/16	Committee Executive Action--Bill Passed as Amended	17	0
2/16	Committee Report--Bill Passed as Amended		
2/20	2nd Reading Passed as Amended	98	1
2/22	3rd Reading Passed	95	5
	Transmitted to Senate		
2/22	Revised Fiscal Note Requested		
2/22	Revised Fiscal Note Received		
2/28	Referred to State Administration		
3/01	Fiscal Note Printed		
3/08	Hearing		
3/15	Committee Executive Action--Bill Concurred as Amended	8	0
3/15	Committee Report--Bill Concurred as Amended		

3/17	2nd Reading Concurred on Voice Vote	46	0
3/19	3rd Reading Concurred	49	0
	Returned to House with Amendments		
3/19	Revised Fiscal Note Requested		
3/22	Revised Fiscal Note Received		
3/24	Revised Fiscal Note Printed		
4/11	2nd Reading Senate Amendments Concurred	93	6
4/12	3rd Reading Passed as Amended by Senate	100	0
4/12	Sent to Enrolling		
4/16	Returned from Enrolling		
4/19	Signed by Speaker		
4/21	Signed by President		
4/23	Transmitted to Governor		
5/01	Signed by Governor		
5/01	Chapter Number Assigned		
	Chapter Number 490		
	Effective Date: 7/01/2001 - Sections 1-33, 35, 36, and 38-43		
	Effective Date: Effective Contingent upon Certification by the Public Employees' Retirement Board Pursuant to Section 65, Chapter 471, Laws of 1999, That the Defined Contribution Plan Is Ready to Become Operational or on July 1, 2002, Whichever Is Earlier. - Sections 34 and 37		

HB 117 Introduced by J. Andersen *LC0155 Drafter: MacMaster*

Increase Penalty for Negligent Vehicular Assault Involving Serious Bodily Injury

12/19	Introduced		
12/26	Fiscal Note Requested		
12/28	Referred to Judiciary		
1/05	Fiscal Note Received		
1/09	Hearing		
1/09	Fiscal Note Printed		
1/10	Committee Executive Action--Bill Passed as Amended	20	0
1/11	Committee Report--Bill Passed as Amended		
1/12	2nd Reading Passed	63	37
1/13	3rd Reading Passed	58	40
	Transmitted to Senate		
1/15	Referred to Judiciary		
1/31	Hearing		
1/31	Committee Executive Action--Bill Concurred	9	0
1/31	Committee Report--Bill Concurred		
2/02	2nd Reading Concurred	41	4
2/03	3rd Reading Concurred	37	5
	Returned to House		
2/05	Sent to Enrolling		
2/05	Returned from Enrolling		
2/06	Signed by Speaker		
2/06	Signed by President		
2/06	Transmitted to Governor		
2/14	Signed by Governor		
2/15	Chapter Number Assigned		
	Chapter Number 17		
	Effective Date: 10/01/2001 - All Sections		

HB 118 Introduced by Clancy *LC0325 Drafter: Everts*

Revise Clean Air Act

By Request of Department of Environmental Quality

HOUSE BILL NO. 116

INTRODUCED BY D. MOOD

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DEFINED CONTRIBUTION PLAN PROVISIONS UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; COMPLYING WITH INTERNAL REVENUE CODE REQUIREMENTS; LIMITING LIABILITY; REVISING THE ALLOCATION OF CURRENT CONTRIBUTIONS TO AN EDUCATION FUND; REVISING HOW FAMILY LAW ORDERS AND EXECUTION OF WITHHOLDING AND SUPPORT OBLIGATION ORDERS MAY BE APPLIED; REVISING THE USE OF FORFEITURES; MAKING CONTRACTED SERVICES DISCRETIONARY; CLARIFYING PLAN CHOICE PROVISIONS FOR UNIVERSITY EMPLOYEES; ELIMINATING A PROHIBITION ON REJOINING THE DEFINED BENEFIT PLAN UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REVISING THE INTEREST CREDITED ON AMOUNTS TRANSFERRED TO THE DEFINED CONTRIBUTION PLAN; CLARIFYING TRANSFER AND ROLLOVER PROVISIONS; REVISING MINIMUM ACCOUNT BALANCE PROVISIONS; REVISING CERTAIN PROVISIONS OF THE OPTIONAL RETIREMENT PROGRAM; AMENDING SECTIONS 19-2-303, 19-2-401, 19-2-907, 19-2-909, 19-2-1001, 19-2-1002, 19-2-1003, 19-2-1004, 19-2-1005, 19-2-1006, 19-2-1007, 19-3-2101, 19-3-2102, 19-3-2111 19-3-2112, 19-3-2113, 19-3-2114, 19-3-2115, 19-3-2116, 19-3-2117, 19-3-2121, 19-3-2122, 19-3-2123, 19-3-2124, 19-3-2125, 19-3-2126, 19-3-2133, 19-21-101, 19-21-103, 19-21-201, 19-21-202, AND 19-21-203, MCA, AND SECTIONS 79 AND 81, CHAPTER 471, LAWS OF 1999; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-2-303, MCA, is amended to read:

"19-2-303. (Temporary) Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a system, together with the regular interest on the contributions.

(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually.

(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a retirement system over the present value of future normal costs in that retirement system.

(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

(7) "Additional contributions" means contributions made by a member to purchase various types of optional service credit as allowed by the applicable retirement system.

(8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and are not subject to periodic or one-time increases.

(9) "Benefit" means the service or disability retirement or survivorship benefit payment provided by a retirement system.

(10) "Board" means the public employees' retirement board provided for in 2-15-1009.

(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

(12) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement system and that are used to calculate service or disability retirement or survivorship benefits under a retirement system.

(13) "Department" means the department of administration.

(14) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits or lump-sum payments upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

(15) "Disability" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board

on the basis of competent medical opinion.

(16) "Employee" means a person who is employed by an employer in any capacity and whose salary is being paid by the employer.

(17) "Employer" means a governmental entity participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees.

(18) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

(19) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

(20) "Inactive member" means a member who is not an active or retired member.

(21) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

(22) "Member" means any person with accumulated contributions and service credited with a retirement system or receiving a retirement benefit on account of the person's previous service credited in a retirement system.

(23) "Membership service" or "years of service" means the periods of service that are used to determine eligibility for retirement or other benefits.

(24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a retirement system during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement system.

(25) "Pension" means benefit payments for life derived from contributions to a system made from state- or employer-controlled funds.

(26) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system in public trust.

(27) "Regular contributions" means contributions required from members under a retirement system.

(28) "Regular interest" means interest at the rate set from time to time by the board.

(29) "Retirement" or "retired" means the status of a member who has been terminated fr service for at least 30 days and has received and accepted a retirement benefit from a retirement syst

(30) "Retirement benefit" means the periodic benefit payable as a result of service, early disability retirement under a retirement system. An annuity is not a retirement benefit.

(31) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution p under one of the public employee retirement systems enumerated in 19-2-302.

(32) "Retirement system" or "system" means one of the public employee retirement syste enumerated in 19-2-302.

~~(32)~~(33) "Service" means employment of an employee in a position covered by a retirem system.

~~(33)~~(34) "Statutory beneficiary" means the surviving spouse or dependent child or children o member of the highway patrol officers', municipal police officers', or firefighters' unified retirement sys who are statutorily designated to receive benefits upon the death of the member.

~~(34)~~(35) "Supplemental cost" means an element of the total actuarial cost of a retirement syst arising from benefits payable for service performed prior to the inception of the retirement system or p to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failu fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs included in the unfunded actuarial liabilities of the retirement system.

~~(35)~~(36) "Survivorship benefit" means payments for life to the statutory or designated benefic of a deceased member who died while in service under a retirement system.

~~(36)~~(37) "Termination of employment" or "termination of service" means that the member severed the employment relationship with the employer and has been paid all compensation due u termination of employment, including but not limited to payment of accrued annual leave credits provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purpo of this subsection, compensation as a result of legal action, court order, appeal, or settlement to w the board was not party is not a payment due upon termination.

~~(37)~~(38) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirem system's actuarial liabilities at any given point in time over the value of its cash and investments on same date.

~~(38)~~(39) "Vested member" or "vested" means a member or the status of a member who

attained the minimum membership service requirements to be eligible for retirement benefits under a retirement system.

~~(39)~~(40) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary.

19-2-303. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:

(1) ~~"Account balance" means all contributions, income, and other assets in a retirement account that have, pursuant to 19-3-2116, vested to a member of the defined contribution plan.~~

~~(2)~~ "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.

~~(3)~~(2) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.

~~(4)~~(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

~~(5)~~(4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually.

~~(6)~~(5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.

~~(7)~~(6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.

~~(8)~~(7) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.

~~(9)~~(8) "Annuity" means:

(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or

(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular intervals.

~~(10)~~(9) "Benefit" means:

(a) the service or disability retirement or survivorship benefit payment provided by a defined benefit retirement plan; or

(b) a payment or distribution under the defined contribution retirement plan for the exclusive benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.

~~(11)~~(10) "Board" means the public employees' retirement board provided for in 2-15-1009.

~~(12)~~(11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.

~~(13)~~(12) "Covered employment" means employment in a covered position.

~~(14)~~(13) "Covered position" means a position in which the employee must be a member of the retirement system except as otherwise provided by law.

~~(15)~~(14) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate service or disability retirement or survivorship benefits under a defined benefit retirement plan.

~~(16)~~(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.

~~(17)~~(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.

~~(18)~~(17) "Department" means the department of administration.

~~(19)~~(18) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.

~~(20)~~(19) "Disability" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

~~(21)~~(20) "Employee" means a person who is employed by an employer in any capacity and who

salary is being paid by the employer.

~~(22)~~(21) "Employer" means a governmental entity participating in a retirement system enumerated in 19-2-302 on behalf of its eligible employees.

~~(23)~~(22) "Essential elements of the position" means fundamental job duties. An element may be considered essential because of but not limited to the following factors:

(a) the position exists to perform the element;

(b) there are a limited number of employees to perform the element; or

(c) the element is highly specialized.

~~(24)~~(23) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the following June 30.

~~(25)~~(24) "Inactive member" means a member who is not an active or retired member.

~~(26)~~(25) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as applicable to a retirement system, as that code provided on July 1, 1999.

~~(27)~~(26) "Member" means either:

(a) a person with accumulated contributions and service credited with a defined benefit retirement plan or receiving a retirement benefit on account of the person's previous service credited in a retirement system; or

(b) a person with a retirement account in the defined contribution plan.

~~(28)~~(27) "Membership service" or "years of service" means the periods of service that are used to determine eligibility for retirement or other benefits.

~~(29)~~(28) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement plan.

~~(30)~~(29) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.

~~(31)~~(30) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.

~~(32)~~(31) "Plan choice rate" means the amount of the employer contribution as a percentage of pay for members covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant

to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.

~~(33)~~(32) "Regular contributions" means contributions required from members under a retirement plan.

~~(34)~~(33) "Regular interest" means interest at the rate set from time to time by the board.

~~(35)~~(34) "Retirement" or "retired" means the status of a member who has been terminated from service for at least 30 days and has received and accepted a retirement benefit from a retirement plan.

~~(36)~~(35) "Retirement account" means an individual account within the defined contribution retirement plan for the deposit of employer and employee contributions and other assets for the exclusive benefit of a member of the defined contribution plan or the member's beneficiary.

~~(37)~~(36) "Retirement benefit" means:

(a) in the case of a defined benefit plan, the periodic benefit payable as a result of service, early or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.

(b) in the case of the defined contribution plan, a benefit as defined in subsection ~~(10)(b)~~ (9)(b)

(37) "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan under one of the public employee retirement systems enumerated in 19-2-302.

(38) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.

(39) "Service" means employment of an employee in a position covered by a retirement system.

(40) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.

(41) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.

(42) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.

(43) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.

(44) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

(45) "Vested account" means an individual account within a defined contribution plan that is for the exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the income on all contributions in each of the following accounts: the member's contribution account, the vested portion of the employer's contribution account, and the member's account for other contributions.

(46) "Vested member" or "vested" means:

(a) with respect to a defined benefit plan, a member or the status of a member who has attained the minimum membership service requirements to be eligible for retirement benefits under the retirement plan; or

(b) with respect to the defined contribution plan, a member or the status of a member who~~,~~ pursuant to meets the minimum membership service requirement of 19-3-2116~~, is entitled to employer contributions and income on those contributions in the member's retirement account~~.

~~(46)~~(47) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary."

Section 2. Section 19-2-401, MCA, is amended to read:

~~"19-2-401. (Temporary) Location of board -- jurisdiction and venue for judicial review -- quorum -- officers and employees. (1) The board shall maintain its office in the city of Helena. Jurisdiction and venue for judicial review of final administrative decisions of the board are in the first judicial district, Lewis and Clark County, unless otherwise stipulated by the parties.~~

~~(2) A quorum of the board is three members.~~

~~(3) The board shall elect one of its members presiding officer. The board may appoint a committee of one or more of its members to perform routine acts, such as retirement of members and fixing of retirement benefits, approval of death claims, and correction of records necessary in the administration of the systems in accordance with the provisions of chapters 3, 5 through 9, 12, 13, and 15 of this title and in accordance with the rules of the board. The attorney general is the legal counsel for the board.~~

19-2-401. ~~(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)~~ Location of board -- jurisdiction and venue for judicial review -- quorum -- officers and employees. (1) The board shall maintain its office in the city of Helena. Jurisdiction and venue for judicial review of final administrative decisions of the board are in the first judicial district, Lewis and Clark County, unless otherwise stipulated by the parties.

(2) A quorum of the board is four members.

(3) The board shall elect one of its members presiding officer. The board may appoint a committee of one or more of its members to perform routine acts, such as retirement of members and fixing of retirement benefits, approval of death claims, and correction of records necessary in the administration of the systems in accordance with the provisions of chapters 2, 3, 5 through 9, 13, ~~and~~ 17, and 50 of this title and in accordance with the rules of the board. The attorney general is the legal counsel for the board."

NEW SECTION. **Section 3. Limitation of liability.** (1) The board shall exercise its fiduciary authority in the same manner that would be used by a prudent person acting in the same capacity who is familiar with the circumstances and in an enterprise of a similar character with similar aims.

(2) Plan fiduciaries are not liable for any loss to a defined contribution plan or optional retirement program participant's or beneficiary's account that results from the participant's or beneficiary's exercise of control.

(3) Plan fiduciaries are not responsible for the acts or omissions of any vendor providing services to the defined contribution plan or optional retirement program. Nothing in this subsection limits the liability of any vendor for services required by contract.

(4) Plan fiduciaries are not liable for their reliance on the express provisions of the defined contribution plan or optional retirement program.

Section 4. Section 19-2-907, MCA, is amended to read:

"19-2-907. Alternate payees -- family law orders -- rulemaking. (1) A participant in a retirement system may have the participant's rights modified or recognized by a family law order.

(2) For purposes of this section:

(a) "family law order" means a judgment, decree, or order of a court of competent jurisdiction under Title 40 concerning child support, parental support, spousal maintenance, or marital property rights that includes a transfer of all or a portion of a participant's payment rights in a retirement system to an alternate payee in compliance with this section; and

(b) "participant" means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 3, 5, 6, 7, 8, 9, 13, or 17.

(3) A family law order must identify a participant and an alternate payee by full name, current address, date of birth, and social security number. An alternate payee's rights and interests granted in compliance with this section are not subject to assignment, execution, garnishment, attachment, or other process. An alternate payee's rights or interests may be modified only by a family law order amending the family law order that established the right or interest.

(4) A family law order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(5) ~~In~~ With respect to a defined benefit plan, a family law order may ~~only~~ provide for payment to an alternate payee only as follows:

(a) Service retirement benefit payments or withdrawals of member contributions may be apportioned by directing payment of either a percentage of the amount payable or ~~payment of~~ a fixed amount of no more than the amount payable to the participant. Payments to an alternate payee may be limited to a specific amount each month if the number of payments is specified.

(b) The maximum amount of disability or survivorship benefits that may be apportioned to alternate payees is the monthly benefit amount that would have been payable on the date of termination

of service if the member had retired without disability or death. Conversion of a disability retirement to service retirement pursuant to 19-2-406(4), 19-3-1015(2), 19-6-612(2), or 19-8-712(2) does not increa the maximum monthly amount that may be apportioned to an alternate payee.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may apportioned as a percentage only if existing benefit payments are apportioned as a percentage. T adjustments must be apportioned as a percentage in the same ratio as existing benefit payments.

(d) ~~Payments must be limited to the life of the appropriate participant. The duration of paymen to an alternate payee may be further limited only to a specified maximum time, the life of the alterna payee, or the life of a specified participant. Payments to an alternate payee may be limited to a specif amount each month if the number of payments is specified. The alternate payee's rights and interes survive the alternate payee's death and may be transferred by inheritance.~~

~~(c)~~ The participant may be required to choose a specified form of benefit payment or designa a beneficiary or contingent annuitant if the retirement system or plan allows for that option.

(6) With respect to a defined contribution plan, a family law order may provide for payment to a alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either percentage or a fixed amount. The total amount apportioned may not exceed the amount in participant vested account. The alternate payee may receive the payment only as a direct payment, rollover, transfer. A new account may not be established for an alternate payee.

(b) If the participant is receiving periodic payments from an annuity provided under the plan, thos payments may be apportioned as a percentage of the amount payable to the participant. Payments to th alternate payee may be limited to a specific amount each month if the number of payments is specifie Payments may not total more than the amount payable to the payee.

(7) The duration of monthly payments apportioned from a defined benefit or defined contributio plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. Th duration of the monthly payments may be further limited only to a specified maximum time, the life of th alternate payee, or the life of another specified participant. The alternate payee's rights and interes survive the alternate payee's death and may be transferred by inheritance.

(8) The board may assess a participant or an alternate payee for all costs of reviewing an administering a family law order, including reasonable attorney fees. The board may adopt rules

implement this section.

~~(7)~~(9) Each family law order establishing a final obligation concerning payments by the retirement system must contain a statement that the order is subject to review and approval by the board.

~~(8)~~(10) The board shall adopt rules to provide for the ~~application~~ administration of ~~a~~ family law ~~order within the defined contribution plan~~ orders."

Section 5. Section 19-2-909, MCA, is amended to read:

"19-2-909. Execution or withholding for support obligation -- rulemaking. (1) Benefits in the retirement systems or plans provided for in chapters 3, 5 through 9, 13, and 17 are subject to execution and income withholding for the payment of a participant's support obligation.

(2) For purposes of this section, the following definitions apply:

(a) "Execution" means a warrant for distraint issued or a writ of execution obtained by the department of public health and human services when providing support enforcement services under Title IV-D of the Social Security Act.

(b) "Income withholding" means an income-withholding order issued under the provisions of Title 40, chapter 5, part 3 or 4, or an income-withholding order issued in another state as provided in 40-5-157.

(c) "Participant" means an identified person who is a member or an actual or potential beneficiary, survivor, or contingent annuitant of a retirement system or plan designated pursuant to Title 19, chapter 5, 6, 7, 8, 9, 13, or 17.

(d) "Support obligation" has the meaning provided in 40-5-403 for a support order.

(3) The execution or income-withholding order may not require:

(a) a type or form of benefit, option, or payment not available to the affected participant under the appropriate retirement system or plan; or

(b) an amount or duration of payment greater than that available to a participant under the appropriate retirement system or plan.

(4) An execution or income-withholding order applied to a defined benefit retirement plan may provide for payment only as follows:

(a) Service retirement benefit payments or withdrawals of member contributions may be apportioned by directing payment of a percentage of the amount payable or payment of a fixed amount of no more than the amount payable to the participant.

(b) The maximum amount of disability or survivorship benefits that may be apportioned and paid under this section is the monthly benefit amount that would have been payable on the date of termination of service if the member had retired without disability or death.

(c) Retirement benefit adjustments for which a participant is eligible after retirement may be apportioned only if existing benefit payments are apportioned. The adjustments must be apportioned in the same ratio as existing benefit payments.

~~(d) Payments must be limited to the life of the appropriate participant. The duration of payments under this section may be further limited only to a specified maximum time or the life of a specified participant. Payments may also be limited to a specific amount each month if the number of payments is specified.~~

(5) With respect to a defined contribution plan, an execution or income-withholding order may provide for payment to an alternate payee only as follows:

(a) The vested account of the participant may be apportioned by directing payment of either a percentage or a fixed amount. The total amount apportioned may not exceed the amount in the participant's vested account. The alternate payee may receive the payment only as a direct payment, rollover, or transfer. A new account may not be established for an alternate payee.

(b) If the participant is receiving periodic payments from an annuity provided under the plan, those payments may be apportioned as a percentage of the amount payable to the participant. Payments to the alternate payee may be limited to a specific amount each month if the number of payments is specified. Payments may not total more than the amount payable to the payee.

(6) The duration of monthly or other periodic payments apportioned from a defined benefit or defined contribution plan participant to an alternate payee may not exceed the lifetime of the appropriate participant. The duration of the monthly payments may be further limited only to a specified maximum time, the life of the alternate payee, or the life of another specified participant. The alternate payee's rights and interests survive the alternate payee's death and may be transferred by inheritance.

(7) The board shall adopt rules to provide for the ~~application~~ administration of ~~an~~ execution or income-withholding ~~order within the defined contribution plan~~ orders."

Section 6. Section 19-2-1001, MCA, is amended to read:

"19-2-1001. Maximum contribution and benefit limitations. (1) Employee contributions paid to and

retirement benefits paid from ~~the~~ a retirement ~~systems~~ system or plan may not exceed the annual limits on contributions and benefits ~~in~~, respectively, allowed by section 415 of the Internal Revenue Code.

(2) A member may not receive an annual benefit that exceeds the dollar amount specified in section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable adjustments in section 415(b) of the Internal Revenue Code.

(3) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to a retirement system or plan if the amount of the contribution would exceed the limits provided in section 415 of the Internal Revenue Code, by using the following methods:

(a) If the ~~retirement system's~~ law requires a lump-sum payment for the purchase of service credit, the board may establish a periodic payment plan for the member ~~in order~~ to avoid a contribution in excess of the limits under section 415(c) or 415(n) of the Internal Revenue Code.

(b) If payment pursuant to subsection (3)(a) will not avoid a contribution in excess of the limits imposed by section 415(c) of the Internal Revenue Code, the board shall either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(4) The limitation year for purposes of section 415 of the Internal Revenue Code is the calendar year beginning each January 1 and ending December 31.

(5) "Salary" or any other similar term used for the purposes of determining compliance with section 415 of the Internal Revenue Code includes the amount of an elective deferral, as defined in section 402(g) of the Internal Revenue Code, or any other contribution that is contributed or deferred by the employer at the election of the member and that is not includable in the gross income of the member because of sections 125, 403(b), or 457 of the Internal Revenue Code."

Section 7. Section 19-2-1002, MCA, is amended to read:

"~~**19-2-1002. (Temporary) Vesting of retirement benefits upon termination of system.** Upon termination of a retirement system, termination of employment of a substantial number of members that would constitute a partial termination of the retirement system, or complete discontinuance of contributions to that retirement system, the retirement benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent funded.~~

19-2-1002. ~~(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)~~ Vesting of retirement benefits upon termination of plan. Upon termination of a retirement system or plan,

termination of employment of a substantial number of members that would constitute a partial termination of the retirement system or plan, or complete discontinuance of contributions to that retirement system or plan, the retirement benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent funded."

Section 8. Section 19-2-1003, MCA, is amended to read:

"~~**19-2-1003. (Temporary) Transfer of dormant, nonvested member-accumulated contributions.** The board may, in its discretion, transfer the accumulated contributions of a nonvested member to the pension trust fund of the system in which the member is participating if the member has not participated in the plan as an employee for a period of 10 years. Rights of the member may not be jeopardized by the transfer, and the accumulated contributions must be transferred to the member's name upon subsequent return to service or subsequent application for refund.~~

19-2-1003. ~~(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)~~ Transfer of dormant, nonvested member-accumulated contributions. The board may, in its discretion, transfer the accumulated contributions of a nonvested member of a defined benefit system or plan to the pension trust fund of the system or plan in which the member is participating if the member has not participated in the system or plan as an employee for a period of 10 years. Rights of the member may not be jeopardized by the transfer, and the accumulated contributions must be transferred to the member's name upon subsequent return to service or subsequent application for refund."

Section 9. Section 19-2-1004, MCA, is amended to read:

"**19-2-1004. Exemption from taxes and legal process.** Except as provided in 19-2-907 and 19-2-909, the right of a person to any benefit or payment from ~~the~~ a retirement ~~systems~~ system or plan and the money in the system or plan's pension trust ~~funds~~ fund is not:

(1) subject to execution, garnishment, attachment, or any other process;

(2) subject to state, county, or municipal taxes except for:

(a) a benefit or annuity received in excess of $3,600 or adjusted by an amount determined pursuant to 15-30-111(2)(c)(ii); or

(b) a refund of a member's regular contributions picked up by an employer after June 30, 1985, as provided in 19-3-315, 19-5-402, 19-6-402, 19-7-403, 19-8-502, 19-9-710, or 19-13-601; or

(3) assignable except as specifically provided in this chapter."

Section 10. Section 19-2-1005, MCA, is amended to read:

"~~**19-2-1005. (Temporary) Compensation limit.** A retirement system subject to this chapter may not take into account compensation of a member in excess of the amount permitted in Internal Revenue Code section 401(a)(17).~~

19-2-1005. ~~**(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**~~ **Compensation limit.** A retirement system or plan subject to this chapter may not take into account compensation of a member in excess of the amount permitted in Internal Revenue Code section 401(a)(17)."

Section 11. Section 19-2-1006, MCA, is amended to read:

"**19-2-1006. Use of forfeitures.** A retirement system or plan subject to this chapter may not apply forfeitures of benefits resulting from the member's termination of employment, the death of the member, or any other reason to increase the benefits of any member in a manner not permitted in Internal Revenue Code section 401(a)(8). However, forfeitures may be used to reduce the ~~costs~~ cost of ~~administration of~~ administering a retirement system or plan subject to this chapter."

Section 12. Section 19-2-1007, MCA, is amended to read:

"~~**19-2-1007. (Temporary) Required distributions.** The benefits payable by the retirement systems subject to this chapter are subject to the requirements of section 401(a)(9) of the Internal Revenue Code as follows:~~

~~(1) Benefits must begin by the later of April 1 of the calendar year following the calendar year in which the member reaches 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by April 1 of the year following the calendar year in which the member attains age 70 1/2 or April 1st of the year following the calendar year in which the member terminates employment, whichever is later, the board shall begin distribution of the benefit as required by the retirement system to which the member belongs or, subject to subsection (2), as an option 4 benefit in chapters 3, 5, 7, and 8 of this title.~~

~~(2) The member's entire interest in the retirement system must be distributed over the life of the~~

~~member or the lives of the member and a designated beneficiary, over a period not extending beyond the life expectancy of the member or the life expectancy of the member and designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.~~

~~(3) The life expectancy of a member or the member's beneficiary may not be recalculated after payment of the benefits has begun.~~

~~(4) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed beginning within 3 months of notification to the board of the death of the member and, if necessary, the identification of the beneficiary pursuant to 19-2-802 and must be distributed at least as rapidly as under the method of distribution prior to the member's death.~~

~~(5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age. Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.~~

~~(6) The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.~~

19-2-1007. ~~**(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)**~~ **Required distributions.** The benefits payable by ~~the~~ a retirement ~~plans~~ system or plan subject to this chapter are subject to the requirements of section 401(a)(9) of the Internal Revenue Code as follows:

(1) Benefits must begin by the later of April 1 of the calendar year following the calendar year in which the member reaches 70 1/2 years of age or April 1 of the calendar year following the calendar year in which the member terminates employment. If a member fails to apply for retirement benefits by Apr

1 of the year following the calendar year in which the member attains age 70 1/2 or April 1st of the year following the calendar year in which the member terminates employment, whichever is later, the board shall begin distribution of the benefit as required by the retirement system or plan to which the member belongs or, subject to subsection (2), as an option 4 benefit in chapters 3, 5, 7, and 8 of this title.

(2) The member's entire interest in a retirement system or plan must be distributed over the life of the member or the lives of the member and a designated beneficiary or over a period not extending beyond the life expectancy of the member or the life expectancy of the member and a designated beneficiary. Death benefits must be distributed in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations implementing that section.

(3) The life expectancy of a member or the member's beneficiary may not be recalculated after payment of the benefits has begun.

(4) When a member dies after distribution of benefits has begun, the remaining portion of the member's interest must be distributed beginning within 3 months of notification to the board of the death of the member and, if necessary, the identification of the beneficiary pursuant to 19-2-802 and must be distributed at least as rapidly as under the method of distribution prior to the member's death.

(5) When a member dies before distribution of benefits has begun, the entire interest of the member must be distributed within 5 years of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within 1 year after the date of the member's death. The 5-year payment rule does not apply to any portion of the member's interest that is payable to a surviving spouse, that is payable over the life or life expectancy of the spouse, and that begins no later than the date the member would have reached 70 1/2 years of age. Distributions to a member's beneficiary must begin as soon as administratively feasible, but must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. If the beneficiary has not elected the form of payment by that date, payment to the beneficiary must be made in the form of a lifetime monthly benefit payment if the beneficiary is eligible for a monthly benefit or in a lump sum if that is the only benefit payable to the beneficiary.

(6) The benefits payable must meet the minimum distribution incidental benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code."

NEW SECTION. **Section 13. Nonapplication of part to defined contribution plan.** Unless otherwise explicitly provided in this part, none of the provisions of this part apply under the defined contribution plan.

Section 14. Section 19-3-2101, MCA, is amended to read:

"19-3-2101. Definitions. Unless the context requires otherwise, as used in this part, the following definitions apply:

(1) "Member" means ~~an employee~~ a person with a retirement account in the defined contribution plan.

(2) "Optional retirement program" means the retirement plan established by the board of regents under chapter 21 of this title.

(3) "Plan" or "defined contribution plan" means the defined contribution retirement plan."

Section 15. Section 19-3-2102, MCA, is amended to read:

"19-3-2102. (Subsection (1) effective on occurrence of contingency or July 1, 2002, whichever is earlier) Defined contribution plan established -- assets to be held in trust -- contracted services. (1) The board shall establish within the public employees' retirement system a defined contribution plan in accordance with the provisions of this part. The plan must be established as a pension plan for the exclusive benefit of members and their beneficiaries and as a "qualified governmental plan" pursuant to section 401(a) of the Internal Revenue Code and its implementing regulations. Retirement accounts must be established for each member of the defined contribution plan. Assets of the plan must be held in trust. The plan is established in addition to any retirement, pension, deferred compensation, or other benefit plan administered by the state or a political subdivision.

(2) The board ~~shall~~ may contract for plan administration and use a competitive bidding process when contracting for consulting, educational, investment, recordkeeping, or other services for the plan.

~~(3) The board shall contract for a qualified consultant to assist in preparation of the request for bid or request for proposal for plan services.~~"

NEW SECTION. **Section 16. Limited contract right.** The statutory provisions governing the defined contribution plan and the optional retirement program are subject to amendment by the legislature. Employees choosing the defined contribution plan or the optional retirement program pursuant to this part

do not have a contract right to the specific terms and conditions specified in statute on the date the employee's choice becomes effective.

Section 17. Section 19-3-2111, MCA, is amended to read:

"19-3-2111. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Plan membership -- written election required -- failure to elect -- effect of election. (1) Except as otherwise provided in this part:

(a) (i) a member who is an active member of the defined benefit plan on the date that the defined contribution plan becomes effective may, within 12 months after that date, elect to transfer to and become a member of the plan;

(ii) a member who was an inactive member of the defined benefit plan on the date that the defined contribution plan becomes effective and who is rehired into covered employment after the plan effective date may, within 12 months after the member's rehire date, elect to transfer to and become a member of the plan;

(b) a member who is initially hired into covered employment on or after the date that the defined contribution plan becomes effective may, within 12 months of the member's hire date, elect to become a member of the plan.

(2) (a) Elections made pursuant to this section must be made on a form prescribed by the board.

(b) A member failing to make an election prescribed by this section remains a member of the defined benefit plan.

(c) An election under this section, including the default election pursuant to subsection (2)(b), is a one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after an employee has terminated membership in either plan and returned to covered employment.

(3) A member in either the defined benefit plan or the defined contribution plan who becomes inactive after an election under this section and who returns to active membership remains in the plan previously elected.

(4) A system member may not simultaneously be a member of the defined benefit plan and the defined contribution plan and must be a member of either the defined benefit plan or the defined contribution plan. A period of service may not be credited in more than one retirement plan within the system.

(5) The provisions of this part do not prohibit the board from adopting rules to allow an employee to elect the defined contribution plan on the first day of covered employment.

(6) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the defined contribution plan unless the order is modified to apply under the defined contribution plan ~~or, for university employees making an election pursuant to 19-3-2112, the optional retirement program~~."

Section 18. Section 19-3-2112, MCA, is amended to read:

"**19-3-2112. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Plan choices for members employed by university system -- amount available to transfer -- effect on rights.** (1) If an employee of the Montana university system~~, as provided for in 20-1-101,~~ is eligible to make an election under this part to transfer to the defined contribution plan, the employee may, instead of electing the defined contribution plan, ~~make a one-time irrevocable election on a form prescribed by the board~~ elect to transfer membership to the university system's optional retirement program provided for under chapter 21 of this title.

(2) Except as otherwise provided in this part, an election to transfer to the optional retirement program must be made in accordance with the following provisions:

(a) (i) A university employee who is an active member of the defined benefit plan on the effective date of the defined contribution plan may, within 12 months after that date, elect to transfer to and become a member of the optional retirement program.

(ii) A university employee who was an inactive member of the defined benefit plan on the effective date of the defined contribution plan and who is hired or rehired into covered employment with the university system after that date may, within 12 months after the member's hire or rehire date, elect to transfer to and become a member of the optional retirement program.

(iii) An employee who is initially hired into covered employment with the university system on or after the effective date of the defined contribution plan may, within 12 months of the member's hire date, elect to become a member of the optional retirement program.

(b) Elections made pursuant to this section must be made on a form prescribed by the board.

(c) A member failing to make an election prescribed by this section remains a member of the defined benefit plan.

(d) An election under this section, including the default election pursuant to subsection (2)(c), is a one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(d) does not prohibit a new election after an employee has terminated membership in the optional retirement program and returned to employment in a position covered under the system.

(e) A member in either the defined benefit plan or the optional retirement program who becomes inactive after an election under this section and who returns to active membership remains in the plan previously elected.

(f) A university employee in a position covered under the system may not simultaneously be a member of more than one retirement plan under this title, but must be a member of the defined benefit plan, the defined contribution plan, or the optional retirement program as provided by applicable provisions of this title. The same period of service may not be credited in more than one retirement system or plan.

(g) The provisions of this part do not prohibit the board from adopting rules to allow an eligible employee to elect the optional retirement program on the first day of covered employment.

(h) A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or an execution or income-withholding order pursuant to 19-2-909 may not transfer to the optional retirement program unless the order is modified to apply under the optional retirement program.

~~(2)~~(3) For an employee electing to transfer to the optional retirement program, the board shall transfer to the optional retirement program the amount that the employee would have been able to transfer to the defined contribution plan under 19-3-2114.

~~(3)~~(4) An election to become a member of the optional retirement program pursuant to this section is a waiver of all rights and benefits under the public employees' retirement system."

Section 19. Section 19-3-2113, MCA, is amended to read:

"19-3-2113. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Reinstatement of plan membership -- purchase of prior service in defined benefit plan. (1) (a) ~~An employee~~ A participant who ~~terminated~~ terminates membership in the defined benefit plan, the defined contribution plan, or the optional retirement program after making an election pursuant to 19-3-2111 or 19-3-2112 and who returns to covered employment ~~after a break in service of~~ in less than 24 ~~consecutive~~ months shall become a member of the plan that the member last selected and is not eligible for a new plan choice election.

(b) ~~Except as provided in subsection (2), an employee~~ A participant who terminated membership in either the defined benefit plan, the defined contribution plan, or the optional retirement program after making an election pursuant to 19-3-2111 or 19-3-2112 and who returns to covered employment after ~~a break in service of~~ 24 ~~consecutive~~ months or more is eligible to make a plan choice election as ~~if the employee were~~ though initially hired as provided for in 19-3-2111(1)(b).

~~(2) (a) An employee who returns to covered employment after terminating plan membership in the defined contribution plan or the optional retirement program shall return to the plan previously selected if the employee has accessed money derived from the employee's former retirement account by:~~

~~(i) receiving a lump-sum distribution of the member's former retirement account, unless the distribution was forced pursuant to 19-3-2126(1)(b);~~

~~(ii) receiving a lump-sum distribution from an account outside the defined contribution plan that has at any time received a transfer of funds from the member's former retirement account or any account to which the member has transferred funds from a former retirement account; or~~

~~(iii) receiving a regular benefit, payment, or distribution from an account outside the defined contribution plan in which there is money from the member's former retirement account.~~

~~(b) For the purposes of this subsection (2), "retirement account" also includes an employee's account under the optional retirement program.~~

~~(3)~~(2) (a) An employee who returns to covered employment after terminating membership in the defined benefit plan, who is eligible to make a plan choice, and who elects to join the defined benefit plan may reinstate prior membership service as provided in 19-2-603.

(b) An employee who returns to covered employment after terminating membership in the defined contribution plan or the optional retirement program, who is eligible to make a plan choice, and who elects to join the defined benefit plan may purchase prior membership service by paying to the board the full actuarial cost of the service as of the latest actuarial valuation of the defined benefit plan. The employee may not purchase membership service under this section in excess of the employee's length of service as a member of the defined contribution plan or the optional retirement program."

Section 20. Section 19-3-2114, MCA, is amended to read:

"19-3-2114. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Amount available to transfer. (1) (a) For an employee who was a system member on the day before the

effective date of the defined contribution plan and who elects to transfer to the plan, the board shall transfer from the defined benefit plan to the member's retirement account the employee's contributions and the percentage of the employer's contributions specified in subsection (1)(b), plus 8% compounded annual interest on the total of the transferred employee and employer contributions.

(b) Based on the contribution amount historically available to pay unfunded liabilities in the defined benefit plan and the transferring member's years of service, the percentage of the employer contributions that may be transferred are as follows:

Years of service	Percentage of employer contributions available to transfer
Less than 5 years	65.53%
5 to 9 years	58.59%
10 to 14 years	55.26%
15 to 19 years	55.42%
20 or more years	57.53%

(2) For an employee hired on or after the effective date of the defined contribution plan who elects to become a member of the plan, the board shall transfer from the defined benefit plan to the member's retirement account an amount equal to the amount that would have been credited to the member's account pursuant to 19-3-2117 had the employee become a plan member on the employee's hire date, plus 8% compounded annual interest ~~credited at the actuarially assumed rate of return on the defined benefit plan assets as of the plan's latest actuarial valuation~~."

Section 21. Section 19-3-2115, MCA, is amended to read:

"19-3-2115. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Transfers or rollovers into plan -- service transfers -- membership credit for purposes of vesting. (1) (a) Except as provided in subsection (2), the board shall accept the ~~transfer or~~ rollover of ~~assets~~ contributions and the income on those contributions from another qualified plan to the member's ~~retirement~~ vested account. ~~If a member is transferring assets from another plan provided for in this title, the member must, for the purposes of becoming vested pursuant to 19-3-2116, receive credit for the employee's prior membership service under that plan.~~

(b) To transfer service from another retirement system in this title, an employee must first become

a member of the defined benefit plan. The member must receive membership service and service credit for the service the member transfers. The transferring member may, within 12 months after joining the defined benefit plan, elect to become a member of the defined contribution plan. The transferred service may be used for purposes of vesting in the defined contribution plan pursuant to 19-3-2116.

(2) (a) After-tax money may not be transferred or rolled over to a retirement account unless the money was contributed to the system's defined benefit plan on an after-tax basis.

(b) To the extent that the transfer or rollover is disallowed under the Internal Revenue Code provisions in effect as of the calendar year immediately preceding the date of the transfer or rollover, a member may not transfer or rollover to a retirement account contributions made under sections 403(b) and 457 of the Internal Revenue Code."

Section 22. Section 19-3-2116, MCA, is amended to read:

"19-3-2116. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Vesting -- mandatory termination of membership -- forfeitures. (1) A member is fully vested with the member's contributions and the income on those contributions from the date that the employee becomes a member of the plan, but is not considered a vested member~~, as defined in 19-2-303,~~ unless the member meets the criteria under subsection (2).

(2) A member is not vested with the employer's contributions and the income on those contributions and does not attain the status of a vested member until the member has a total of 5 years of membership service under the system.

(3) A member who terminates covered employment before becoming a vested member shall terminate plan membership by removing from the plan the member's entire vested account balance as provided in 19-3-2123. The employer contributions and income on the employer's contributions in the member's retirement account are forfeited and must be allocated as provided in 19-3-2117."

Section 23. Section 19-3-2117, MCA, is amended to read:

"19-3-2117. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Allocation of contributions and forfeitures. (1) Each plan member's retirement account must be credited with the employee contributions made under 19-3-315.

(2) Subject to adjustment by the board as provided in 19-3-2121, beginning on the plan's effective

date, of the employer contributions under 19-3-316, an amount equal to:

(a) 4.49% of compensation must be allocated to the member's retirement account; ~~and~~

(b) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate; and

(c) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112(1)(c).

(3) Forfeitures of employer contributions and investment income on the employer contributions may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-3-2116 to meet the ~~employer contributions obligation provided under subsection (2)(a) of this section in lieu of direct contributions by the employer and shall increase the contribution amount under subsection (2)(b) of this section by the amount of the forfeitures used in lieu of the employer contributions~~ plan's administrative expenses including startup expenses."

Section 24. Section 19-3-2121, MCA, is amended to read:

"19-3-2121. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Determination and adjustment of plan choice rate and contribution allocations ~~-- rulemaking~~. (1) The board shall ~~provide for the periodic~~ periodically review ~~of~~ the sufficiency of the plan choice rate and shall adjust the allocation of contributions under 19-3-2117 as specified in this section. The board shall ~~provide that~~ collect and maintain the data necessary to comply with this section ~~is collected and maintained for all system members~~.

(2) The plan choice rate set in 19-3-2117(2)(b) must be adjusted as provided in this section, taking into account:

(a) as determined under subsection (3), the change in the normal cost contribution rate in the defined benefit plan that is the result of member selection of the defined contribution plan; and

~~(b) as determined under subsection (4), the anticipated reduction in defined contribution plan costs because of forfeitures; and~~

~~(c)~~(b) as determined under subsection ~~(5)~~ (4), the sufficiency of the plan choice rate to actuarially fund the defined contribution plan's share of the defined benefit plan's unfunded liabilities.

(3) The change in the normal cost contribution rate must be an amount equal to the difference between the normal cost contribution rate in the defined benefit plan that would have resulted if all system members remained in the defined benefit plan and the normal cost contribution rate in the defined benefit

plan for the actual members of the defined benefit plan, multiplied by the covered payroll of members in the defined benefit plan, divided by the covered payroll of members in the defined contribution plan. The measurements under this subsection must be based on the defined benefit plan in effect on the effective date of the defined contribution plan until the board determines that the defined benefit plan has been amended in a manner that significantly affects plan choices available to system members. After a board determination that the defined benefit plan has been significantly changed, the measurements in this subsection with respect to members entering the system after the significant change must be made on the basis of the defined benefit plan, as amended.

~~(4) The anticipated reduction in defined contribution plan costs as a result of forfeitures under 19-3-2116 must be determined as the amount of forfeitures expected during the next biennium based on actual forfeitures in the preceding biennium, adjusted by taking into account the gains or losses during the preceding biennium resulting from forfeitures of greater or lesser amounts than expected, divided by twice the covered payroll of members of the defined contribution plan.~~

~~(5)~~(4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit plan's unfunded liabilities must be determined as follows:

(a) The board shall determine the number of years required to actuarially fund the defined benefit plan's unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the schedule by 1 year each biennium.

(b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to 19-2-405, the board shall determine whether the plan choice rate minus the ~~sum of the amounts~~ amount provided in ~~subsections~~ subsection (2)(a) ~~and (2)(b)~~ of this section is sufficient to pay the unfunded liability obligations within the schedule determined under subsection ~~(5)(a)~~ (4)(a) of this section. If the amount is insufficient to fund the liability over a period of 10 years longer than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the scheduled period, the board shall determine to the nearest 0.1% the amount of the increase or decrease in the plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

~~(6)~~(5) If the board determines that the plan choice rate should be increased or decreased, the plan choice rate under 19-3-2117(2)(b) must be increased or decreased accordingly. If the plan choice rate is increased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a) must be

decreased by that amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under 19-3-2117~~(2)(b)~~(2)(a) must be increased by that amount.

~~(7)~~(6) By November 1 of the year of a determination pursuant to this section that the allocation of employer contributions under 19-3-2117(2) must be changed, the board shall notify system members, participating employers, employee and employer organizations, the governor, and the legislature of its determination and of the changes required.

~~(8)~~(7) Effective January 1 of the year after the regular legislative session that immediately follows a determination under this section, the plan choice rate and the allocation of contributions under 19-3-2117(2) must be adjusted according to the board's determination."

Section 25. Section 19-3-2122, MCA, is amended to read:

"**19-3-2122. (Subsections (4) through (6) effective on occurrence of contingency or July 1, 2002, whichever is earlier) Investment alternatives -- notice of changes -- default fund.** (1) The board shall ~~contract with a vendor or vendors to~~ provide for at least eight investment alternatives within the defined contribution plan. In providing for the plan's investment alternatives, only a vendor or vendors offering suitable and well-managed investments, licensed to conduct business in Montana, and regulated by the United States securities and exchange commission may be used, unless exempt from the commission's regulation.

(2) The investment alternatives must include at least three that offer plan members the following:

(a) the ability to materially affect the potential return on amounts in the member's retirement account and the degree of risk to which those amounts are subject;

(b) a range of investment alternatives that:

(i) provides sound and diversified funds;

(ii) offers, under each alternative, a materially different risk and return characteristic than found in the other alternatives;

(iii) allows the member or beneficiary to choose among them to achieve a portfolio with an aggregate risk and return characteristic to achieve a point within the risk and return range normally appropriate for the member or beneficiary based on age, income, and individual retirement goals; and

(iv) tends to minimize through diversification the overall risk of large losses.

(3) ~~Subject to a competitive bidding process, the~~ The investment alternatives may include the

investment alternatives offered to members of the state deferred compensation plan pursuant to chapter 50 of this title.

(4) The board shall from time to time review the suitability and management of investment alternatives and may change the alternatives to be offered. The board shall notify affected members of potential changes before any changes become effective.

(5) Assets within each member's retirement account must be invested as directed by the member.

(6) The board shall provide for a balanced fund to be established as a default investment fund. In the case of a member failing to direct how the member's retirement account is to be invested, the member's entire account ~~balance~~ must be invested in the default fund.

(7) This section does not prohibit the board from contracting with the board of investments established in 2-15-1808 to provide one or more investment alternatives within the plan."

Section 26. Section 19-3-2123, MCA, is amended to read:

"**19-3-2123. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Payout of vested account balances when terminating plan membership.** Any time after termination of ~~covered employment~~ service, a member or the member's beneficiary may terminate plan membership by ~~making~~ filing a written application ~~to~~ with the board and removing the member's vested account balance from the plan through any combination of the following payout options, each of which is subject to applicable regulations of the internal revenue service:

(1) a direct rollover to an eligible retirement plan or to an individual retirement account or annuity pursuant to section 401(a)(31) of the Internal Revenue Code;

(2) a regular rollover to an eligible retirement plan pursuant to section 402(c) of the Internal Revenue Code; or

(3) a lump-sum distribution of the member's vested account balance."

Section 27. Section 19-3-2124, MCA, is amended to read:

"**19-3-2124. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Distribution options for plan members -- rulemaking -- minimum distribution requirements -- restrictions.** (1) Subject to 19-3-2116 and 19-3-2126, a member may, after termination of ~~covered employment~~ service, leave the member's vested account balance in the plan, and the member is eligible for a

distribution as provided in this section.

(2) After termination of ~~covered employment,~~ service and upon filing a written application ~~to~~ with the board, a member may, if provided for by the board, select a distribution option offered pursuant to a contract negotiated by the board with a plan vendor or vendors.

(3) A member who is less than 70 1/2 years of age who returns to ~~covered employment~~ service may not continue to receive a distribution under this section while actively employed in a covered position.

(4) The board shall adopt rules to administer this section and to provide that distributions comply with the minimum distribution requirements established in the Internal Revenue Code and applicable under 19-2-1007."

Section 28. Section 19-3-2125, MCA, is amended to read:

"19-3-2125. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Death benefits. A plan member's beneficiary must be determined as provided in chapter 2, part 8, of this title. Upon filing a written application ~~filed~~ with the board after the death of a plan member, the member's beneficiary is entitled to the member's vested account balance ~~and all rights established in and~~ subject to this part."

Section 29. Section 19-3-2126, MCA, is amended to read:

"19-3-2126. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) ~~Minimum~~ Refunds -- minimum account balance ~~required for membership after termination~~ -- adjustment by rule. (1) ~~(a) If a member's account balance is less than $5,000 at the time that the member terminates covered employment, the member shall terminate plan membership by removing the member's account balance from the plan in a manner provided pursuant to 19-3-2123.~~

~~(b) If the member fails to remove the member's account balance, the board may close the account by paying to the member a lump-sum distribution of the member's entire account balance.~~ Before termination of service, a member may not receive a refund of any portion of the member's vested account.

(2) A nonvested member who terminates from service and whose vested account balance is less than $200 must be paid the vested account balance in a lump sum. The payment must be made as soon as administratively feasible after the member's termination without a written application from the member.

(3) Unless a written application is made pursuant to subsection (4)(a), a nonvested member who

terminates from service and whose vested account balance is between $200 and $5,000 must be paid the vested account balance in a lump sum. The payment must be made as soon as administratively feasible after the member's termination.

(4) (a) Upon the written application of a terminating member whose vested account balance is $200 or more, the board shall make a direct rollover distribution pursuant to section 401(a)(31) of the Internal Revenue Code of the eligible portion of that balance. To receive the direct rollover distribution, the member is responsible for correctly designating, on forms provided by the board, a retirement plan that allows the rollover and is qualified under applicable federal law.

(b) The direct rollover distribution must be paid directly to the qualified retirement plan. The amount of the member's vested account balance not eligible for a direct rollover distribution must be paid to the member in a lump sum.

~~(2)~~(5) The board may by rule adjust the minimum account balance provided in this section as necessary to maintain reasonable administrative costs and to account for inflation."

Section 30. Section 19-3-2133, MCA, is amended to read:

"**19-3-2133. Creation of employee investment advisory council.** The board shall, by August 1, 1999, ~~appoint~~ create an employee investment advisory council. The advisory council shall meet at least quarterly to:

(1) advise the board concerning the establishment and operation of the defined contribution plan, including the selection of the initial investment alternatives to be provided pursuant to 19-3-2122;

(2) advise the board about negotiating, contracting, or modifying services for the state deferred compensation plan provided for in chapter 50; and

(3) review existing deferred compensation plans and to advise the board on the administration of the program."

Section 31. Section 19-21-101, MCA, is amended to read:

"**19-21-101. Authority to establish optional retirement program.** The board of regents may establish an optional retirement program, as provided in this chapter, for the administrative officers and members of the instructional and scientific staff of the Montana university system. The program may be an independent plan or part of a larger plan with respect to some or all of the benefits provided. The

benefits under the program must be provided through individual annuity contracts, either fixed or variable, or a combination ~~thereof~~ of contracts, issued to and owned by the participants in the program. The program must comply with applicable sections of the Internal Revenue Code."

Section 32. Section 19-21-103, MCA, is amended to read:

"**19-21-103. Duties of board of regents.** The board of regents shall:

(1) act as fiduciaries of the program and exercise its fiduciary authority in the same manner that would be used by a prudent person acting in the same capacity who is familiar with the circumstances and in an enterprise of a similar character with similar aims;

(2) provide for the administration of the program;

~~(2)~~(3) designate the company or companies from which the contracts are to be purchased and approve the form and content of the contracts, taking into consideration the:

(a) nature and extent of the rights and benefits to be provided by the contracts for participants and their beneficiaries;

(b) relationship of these rights and benefits to the amount of contributions to be made;

(c) suitability of these rights and benefits to the needs of the participants and the interests of the Montana university system in the recruitment and retention of administrative officers and members of the instructional and scientific staff; and

(d) ability of the designated company or companies to provide these rights and benefits."

Section 33. Section 19-21-201, MCA, is amended to read:

"**19-21-201. (Temporary) Participation in program.** (1) Except as provided in subsection (2), academic and professional administrative personnel with individual contracts under the authority of the board of regents are eligible for and may elect to participate in the optional retirement program instead of the teachers' retirement system. This election must be exercised:

(a) before January 1, 1988, for an eligible person hired before July 1, 1987;

(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and

(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the optional retirement program by reason

of appointment, promotion, transfer, or reclassification to an eligible position.

(2) (a) An eligible person hired on or after July 1, 1993, shall become a member of the optional retirement plan unless the person is, on the date hired, an active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 20.

(b) A person hired who is a member of a public retirement system created in Title 19, chapter 3 or 20, shall elect to:

(i) remain with the retirement system of which the person is a member on the date hired; or

(ii) become a member of the optional retirement plan.

(c) A person eligible to make an election under this subsection (2) shall exercise the election within 30 days of being hired.

(3) The election must be exercised by filing a written notice with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.

(4) If an eligible officer or staff member fails to exercise the election, as provided by this section, that person must remain or become a member of the teachers' retirement system.

(5) An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program.

19-21-201. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Participation in program. (1) Except as provided in subsection (2), academic and professional administrative personnel with individual contracts under the authority of the board of regents are eligible for and may elect to participate in the program instead of the teachers' retirement system. This election must be exercised:

(a) before January 1, 1988, for an eligible person hired before July 1, 1987;

(b) within 90 days after entry into service or before January 1, 1988, whichever is later, for a person hired in an eligible position on or after July 1, 1987; and

(c) within 30 days after receiving written notice of eligibility or before January 1, 1988, whichever is later, for an employee who becomes eligible to participate in the program by reason of appointment, promotion, transfer, or reclassification to an eligible position.

(2) (a) An eligible person hired on or after July 1, 1993, shall become a member of the program

unless the person is, on the date hired, an active, inactive, or retired member of a public retirement system created in Title 19, chapter 3 or 20.

(b) An eligible person hired who is a member of a public retirement system created in Title 19, chapter 3 or 20, shall elect to:

(i) remain with the retirement system of which the person is a member on the date hired; or

(ii) become a member of the program.

(c) A person eligible to make an election under this subsection (2) shall exercise the election within 30 days of being hired.

(d) A person is ineligible to make an election under subsection (1) or (2) if the person previously elected to remain in the teachers' retirement system pursuant to subsection (1) or to remain in the public employees' retirement system pursuant to this subsection (2).

(3) The election must be exercised by filing a written irrevocable election with the teachers' retirement system and the disbursing officer of the employer. The election is effective as of the date the notice is filed or January 1, 1988, whichever is later.

(4) If an eligible officer or staff member fails to exercise the election, as provided by this section, that person shall remain or become a member of the teachers' retirement system.

(5) An election under this section is not effective unless the notice filed with the disbursing officer of the employer is accompanied by an appropriate application, if one is required, for the issuance of a contract or contracts under the program.

~~(6) Subject to and as provided in 19-3-2112, a university system employee in a position covered under the public employees' retirement system may elect to participate in the program.~~"

NEW SECTION. **Section 34. Participation by employees in positions covered by public employees' retirement system.** Subject to and as provided in 19-3-2112, a university system employee in a position covered under the public employees' retirement system may elect to participate in the program.

Section 35. Section 19-21-202, MCA, is amended to read:

"~~**19-21-202. (Temporary) Effect on rights under teachers' retirement system.** (1) An election under 19-21-201 to participate in the optional retirement program is a waiver of all rights and benefits under the teachers' retirement system except as provided in this section.~~

~~(2) A member of the teachers' retirement system who elects to participate in the optional retirement program is considered, for the purpose of determining eligibility for rights and benefits under that system, to be no longer employed in a capacity that allows active membership in that system as of the effective date of the election. Thereafter, the member is considered an inactive member of the retirement system if qualified under 19-20-303, with the rights and privileges provided under 19-20-603(1). A member who elects to participate in the optional retirement program who does not qualify as an inactive member under 19-20-303 is considered a terminated member of the retirement system under 19-20-304(4).~~

~~(3) A person who elects to participate in the optional retirement program is ineligible to be an active member of the teachers' retirement system while continuously employed in a position eligible to participate in the optional retirement program.~~

19-21-202. ~~(Effective on occurrence of contingency or July 1, 2002, whichever is earlier)~~ Effect on rights under teachers' retirement system. (1) An election under 19-21-201~~(1) through (3) and (5)~~ to participate in the program is a waiver of all rights and benefits under the teachers' retirement system except as provided in this section.

(2) A member of the teachers' retirement system who elects to participate in the program is considered, for the purpose of determining eligibility for rights and benefits under that system, to be no longer employed in a capacity that allows active membership in that system as of the effective date of the election. Thereafter, the member is considered an inactive member of the system if qualified under 19-20-303, with the rights and privileges provided under 19-20-603(1). A member who elects to participate in the program who does not qualify as an inactive member under 19-20-303 is considered a terminated member of the system under 19-20-304(4).

(3) A person who elects to participate in the program is ineligible to be an active member of the teachers' retirement system while continuously employed in a position eligible to participate in the program."

Section 36. Section 19-21-203, MCA, is amended to read:

"19-21-203. (Temporary) Contributions. (1) Each optional retirement program participant shall contribute an amount equal to the member's contribution required under 19-20-602. The board of regents shall contribute an amount that, when added to the participant's contribution, is equal to 12% of the

participant's earned compensation.

(2) (a) On or after July 1, 1997, the board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) The sum of the participant's and employer's contributions made under subsection (2)(a) must remain at 12% of the participant's earned compensation.

(3) The board of regents shall determine whether the participant's contribution is to be made by salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pick-up under section 414(h)(2) of that code.

(4) The disbursing officer of the employer or other official designated by the board of regents shall pay both the participant's contribution and the appropriate portion of the regents' contribution to the designated company or companies for the benefit of the participant.

(5) The board of regents shall make the supplemental contributions to the teachers' retirement system as provided in 19-20-621 to discharge the obligation incurred by the Montana university system for the past service liability incurred by active, inactive, and retired members of the teachers' retirement system.

19-21-203. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier) Contributions -- supplemental and plan choice rate contributions. The following provisions apply to program participants not otherwise covered under [section 37]:

(1) Each program participant shall contribute an amount equal to the member's contribution required under 19-20-602. The board of regents shall contribute an amount that, when added to the participant's contribution, is equal to 12% of the participant's earned compensation.

(2) (a) The board of regents may:

(i) reduce the participant's contribution rate established in subsection (1) to an amount not less than 6% of the participant's earned compensation; and

(ii) increase the employer's contribution rate to an amount not greater than 6% of the participant's earned compensation.

(b) The sum of the participant's and employer's contributions made under subsection (2)(a) must

remain at 12% of the participant's earned compensation.

(3) The board of regents shall determine whether the participant's contribution is to be made b salary reduction under section 403(b) of the Internal Revenue Code of 1954 or by employer pickup unde section 414(h)(2) of that code.

(4) The disbursing officer of the employer or other official designated by the board of regents sha pay both the participant's contribution and the appropriate portion of the board of regents' contributio to the designated company or companies for the benefit of the participant.

(5) ~~(a)~~ The board of regents shall make the supplemental contributions to the teachers' retiremen system, as provided in 19-20-621, to discharge the obligation incurred by the Montana university syste for the past service liability incurred by active, inactive, and retired members of the teachers' retiremen system.

~~(b) For employees electing to become program members pursuant to 19-3-2112, the board o regents shall, in addition to other contributions required under this section, contribute to the public employees' retirement system the plan choice rate provided in 19-3-2117(2)(b) and adjusted pursuant to 19-3-2121.~~"

NEW SECTION. **Section 37. Contributions and allocations for employees in positions covered under the public employees' retirement system.** (1) The contribution rates for employees in position covered under the public employees' retirement system who elect to become program members pursuan to 19-3-2112 are as follows:

(a) the member's contribution rate must be the rate provided in 19-3-315; and

(b) the employer's contribution rate must be the rate provided in 19-3-316.

(2) Subject to subsection (3), the employer's contribution under subsection (1)(b) must b allocated as follows:

(a) 4.49% of compensation must be allocated to the participant's program account;

(b) 2.37% of compensation must be allocated to the defined benefit plan under the publi employees' retirement system as the plan choice rate; and

(c) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(c)

(3) The allocations under subsection (2) are subject to adjustment by the public employee retirement board, but only as described in and in a manner consistent with the express provisions o

19-3-2121.

Section 38. Section 79, Chapter 471, Laws of 1999, is amended to read:

"**Section 79. Effective Dates.** (1) Except as provided in subsections (2) through ~~(4)~~ (5), [this act] is effective October 1, 1999.

(2) [Sections 3, 11, 20 through 22, 43(2) and (3), 44, 45, 55(1) through (3) and (7), 60, 61, 64, 65, 72, 75 through 78, 80, and 81 and this section] are effective on passage and approval.

(3) [Sections 34, 41(1)(a), (1)(b), and (2) through (6), 46, 62, 63, and 66 through 71, 73, and 74] are effective July 1, 1999.

(4) [Sections 2, ~~4~~ 5, 8 through 10, 12 through 19, 23 ~~through~~, 29, 31 through 33, 35 through 37, 39, 40, 41(1)(c), 43(1), 47 through 54, 55(4) through (6), and 56 through 59] are effective contingent upon certification, as provided in [section 65], that the defined contribution retirement plan is ready to become operational or on July 1, 2002, whichever is earlier.

(5) [Sections 4, 6, 7, 24 through 28, 30, and 38] are effective July 1, 2001."

Section 39. Section 81, Chapter 471, Laws of 1999, is amended to read:

"**Section 81. Termination.** (1) [Sections ~~41(1)(b),~~ 61, and 63] terminate July 1, 2001.

(2) [~~Section~~ Sections 41(1)(b) and 60] ~~terminates~~ terminate July 1, 2002."

NEW SECTION. **Section 40. Codification instruction.** (1) [Section 3] is intended to be codified as an integral part of Title 19, chapter 2, part 5, and the provisions of Title 19, chapter 2, part 5, apply to [section 3].

(2) [Section 13] is intended to be codified as an integral part of Title 19, chapter 3, part 16, and the provisions of Title 19, chapter 3, part 16, apply to [section 13].

(3) [Section 16] is intended to be codified as an integral part of Title 19, chapter 3, part 21, and the provisions of Title 19, chapter 3, part 21, apply to [section 16].

(4) [Sections 34 and 37] are intended to be codified as an integral part of Title 19, chapter 21, part 2, and the provisions of Title 19, chapter 21, part 2, apply to [section 34 and 37].

NEW SECTION. **Section 41. Saving clause.** [This act] does not affect rights and duties that

matured, penalties that were incurred, or proceedings that were begun before [the effective date of tl act].

NEW SECTION. **Section 42. Severability.** If a part of [this act] is invalid, all valid parts that a severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of i applications, the part remains in effect in all valid applications that are severable from the inval applications.

NEW SECTION. **Section 43. Effective dates.** (1) Except as provided in subsection (2), [this ac is effective July 1, 2001.

(2) [Sections 34 and 37] are effective contingent upon certification by the public employees retirement board pursuant to section 65, Chapter 471, Laws of 1999, that the defined contribution pla is ready to become operational or on July 1, 2002, whichever is earlier.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on February 16, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Michelle Lee (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 565, 2/9/2001; HB 518, 2/9/2001; HB 116, 2/9/2001
Executive Action: HB 518; HB 116; HB 496; HB 508; HB 565

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 29.5}

Tom Ebzery, Montana Contractors Association stated contractors like the idea of the bill and are in support of the bill.

Informational Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 31.1}

Alec Hanson, Montana League of Cities & Towns said they have identified a few issues in the bill. If the bill goes forward they will have to oppose it unless these issues are addressed.

Joe Mazurek, City of Great Falls said they have worked closely with local contractors to resolve some of the issues. They support the ideal behind the bill, however, they feel there are some details to be worked out between contractors and local governments.

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 1.8}

REPRESENTATIVE MASOLO stated the League of Cities and Towns suggested an amendment which is not acceptable. In the absence of an agreement she asked the committee to table the bill.

HEARING ON HB 116

Sponsor: **REPRESENTATIVE DOUG MOOD, HD 58, SEELEY LAKE**

Proponents: **Kelly Jenkins, Public Employees Retirement Board**
Tom Schnieder, Montana Public Employees Association
Glen Leavitt, University Systems

Opponents: None

Opening Statement by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 3}

REPRESENTATIVE DOUG MOOD, HD 58, SEELEY LAKE said the bill is on behalf of the Public Employees Retirement System. In 1999 HB 79

was passed which instituted a defined contribution plan for PERS. The plan will not be effective until July 2002. The rules are being set up to be compatible with federal laws.

Proponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 6.5}

Kelly Jenkins, Public Employees Retirement Board submitted written testimony **EXHIBIT(5)**. Due to the complexity and technicality of the bill created a chart to describes each section of the bill. **EXHIBIT(6)**

Tom Schnieder, Montana Public Employees Association stated they have been involved for 5 years and there will be continuing legislation on the bill. It's a very complicated subject and is going to take a lot of fine tuning. This bill takes care of several things that has happened in the past 2 years. He then clarified this bill will not end the problems with the defined contribution program, but is a start and they are in full support of the bill.

Glen Leavitt, University Systems said they support the bill and realize it is a very complex piece of legislation.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 18.2}

REPRESENTATIVE JENT asked , how does section 37 of the bill effect university employees. **Kelly Jenkins** replied only the university employees enrolled in PERS get the choice of the Optional Retirement Plan (ORP). This bill only deals with university employees who chose ORP). The will have 3 choices; stay with PERS benefit plan set up by formula, go into a defined contribution plan, or the Optional Retirement Program, administered TIAA-CREF. The contributions will be equal for all plans. **REPRESENTATIVE JENT** asked who is representing the university employees. **Tom Schnieder** replied they represent 1,600 University staff members. They do not represent Western or Northern. He believes they may share some of the representation with MEA-MFT.

REPRESENTATIVE DELL asked if a PERS member decides to switch to ORP with 12% of their salary deposited to their account will the passage of HB 116 cause their contribution to drop to 11.39%? **Kelly Jenkins** replied, they will not have a choice until July 2002. The contribution change will be in effect before anyone makes the choice.

REPRESENTATIVE BROWN asked if in 1½ years, 30,000 people in the State of Montana are going to have to choose between a defined contribution or defined benefit contribution. **REPRESENTATIVE MOOD** replied yes. **REPRESENTATIVE BROWN** then asked if she could suggest an amendment to address all the problems heard in the last month, that there be something written on how individuals will opt in and out and require a signature so they are insured they have been informed of the plans. **REPRESENTATIVE MOOD** replied that has already taken place and will be part of the process.

REPRESENTATIVE LEHMAN reiterated the contribution percentages and classification of jobs with **Kelly Jenkins.**

REPRESENTATIVE LEHMAN asked if teaching assistants are involved in this process. **Glen Leavitt** replied this would have no effect on them.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 4.2}

REPRESENTATIVE MOOD said he wants to encourage some of the individuals to remain on the committee because of the complexity of the retirement bills. He then asked for a do pass of the bill.

EXECUTIVE ACTION ON HB 518

{Tape : 2; Side : B; Approx. Time Counter : 6.7}

Motion: **REP. OLSON** moved that **HB 518 DO PASS.**

Substitute Motion/Vote: **REP. MASOLO** made a substitute motion that **HB 518 BE TABLED. Substitute motion carried unanimously. 15-0**

EXECUTIVE ACTION ON HB 116

{Tape : 2; Side : B; Approx. Time Counter : 8.4}

Motion: **REP. MOOD** moved that **HB 116 DO PASS.**

Discussion:

REPRESENTATIVE DELL said he had his concerns answered and is in full support of the bill.

Motion: **REP. MOOD** moved that **HB 116 BE AMENDED.**

Discussion:
REPRESENTATIVE MOOD submitted and discussed the proposed amendment to the bill. **EXHIBIT(7)**

Motion/Vote: **REP. MOOD** moved that **HB 116 BE AMENDED. Motion carried unanimously. 16-0** with **LEE** and **WALTERS** absent.

Motion/Vote: **REP. MOOD** moved that **HB 116 DO PASS AS AMENDED. Motion carried unanimously. 17-0** with **LEE** absent.

EXECUTIVE ACTION ON HB 496

{Tape : 2; Side : B; Approx. Time Counter : 16}

Motion: **REP. RIPLEY** moved that **HB 496 DO PASS.**

Motion: **REP. OLSON** moved that **HB 116 BE AMENDED.**

Discussion:

Sheri Heffelfinger explained what effect the amendment will have on the bill.

REPRESENTATIVE BROWN stated in her district there are a lot of transients, that would be a nightmare to try to personally serve a writ. **REPRESENTATIVE JENT** clarified they do not have to be personally served the writ. The writ has to be personally served to the bank.

REPRESENTATIVE LEHMAN asked if Social Security Numbers can be used for this purpose. He does not feel the Social Security Number should be on the debt collection paper. **REPRESENTATIVE OLSON** said they can use SOCIAL SECURITY NUMBER or Tax Identification Number.

REPRESENTATIVE BROWN said there are a lot of common names out there and without a SOCIAL SECURITY NUMBER, it would be very difficult for the banks to identify the individual. She feels it needs to be on the papers.

Motion: **REP. JENT** moved that the **AMENDMENT** to **HB 496 BE AMENDED.** Vote: Motion **carried unanimously.** 17-0 with **LEE** absent.

Motion: **REP. OLSON** moved that **HB 496 BE AMENDED.** Vote: Motion **carried unanimously. 17-0** with **LEE** absent.

Motion/Vote: **REP. OLSON** moved that **HB 496 DO PASS AS AMENDED. Motion carried unanimously. 18-0**

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 8, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Don Hargrove, Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: HB 239, HB 374, HB 116, 3/1/2001
Executive Action:

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON HB 239

Sponsor: **REP. BILL THOMAS, HD 93, Hobson**

Proponents: **Tony Herbert, Information Services Division**
Myrle Tompkins, Montana Association for the Blind
Jim Marks, Montana Association for the Blind

SEN. HARGROVE asked **Jeff Hindoien** if the agency met with the tribes together or individually. He responded that they could meet with all the tribes together or individually if problems had arisen.

D. L. Clayborn stated that many tribes had similar problems and the language of the bill allowed the flexibility to meet with all or some of the tribes.

Closing by Sponsor:

REP. BILL EGGERS, HD 6, closed HB 374 by telling the committee this bill would improve coordination between the state and tribal governments. He added that Governor Martz had already been meeting regularly with the tribal government leaders.

HEARING ON HB 116

Sponsor: **REP. DOUG MOOD, HD 58, Seeley Lake**

Proponents: **Kelly Jenkins, Public Employee Retirement Board**

Opponents: **None**

Opening Statement by Sponsor:

REP. DOUG MOOD, HD 58, Seeley Lake, said this bill dealt with the Defined Contribution Plan as put into placement with HB 47. This bill made the changes necessary for HB 47 to comply with federal law. He said page 20 allowed the staff to do some of the contract assistance.

{Tape : 1; Side : B; Approx. Time Counter : 12}

Proponents' Testimony:

Kelly Jenkins, Public Employee Retirement Board, EXHIBIT(1) explained the Defined Contribution Plan. He presented details **EXHIBIT(2)** about coordination and policy considerations and concerns. **Mr. Jenkins EXHIBIT(3)** explained sections of the bill and told the committee that the current law helped people who would leave and hurt people who stayed. He **EXHIBIT(4)** explained Table 1 which was the benefit eligibility and basic benefit formula. **Mr. Jenkins** stressed the importance of consistency in the retirement systems. **Mr. Jenkins** told the committee. **EXHIBIT(5)** about the government structure and administration. He

recommended that disability plans remain in place for five years. He urged the committee to remove the amendment that was added by the House of Representatives floor.

Opponents' Testimony: None

{Tape : 2; Side : B; Approx. Time Counter : 7}

Questions from Committee Members and Responses:

SEN. ELLIOTT asked **REP. MOOD** why the one year vesting was added in the House of Representatives. **REP. MOOD** replied it was because of an ongoing debate. He added that the profile of the individual who joins the Defined Contribution Plan was different than the individual who should get into the Defined Benefit Plan. **REP. MOOD** told the committee that the Defined Contribution Plan was used to attract people to jobs. He said if you put the time limit up to five years, that would deter some people from taking those jobs such as at the university system.

SEN. ELLIOTT asked **REP. MOOD** if they were having to rely more and more on retirement benefits to retain employees than on salary. **REP. MOOD** answered that as the population aged, retirement programs gained more importance. He added that the state did use retirement systems as a substitute for low wages.

SEN. ELLIOTT asked **Kelly Jenkins** to respond to **REP. MOOD's** comments. **Mr. Jenkins** said he had covered the information in his written and oral testimony. He added that they did use retirement systems for retention as well as recruitment.

SEN. BUTCHER told **REP. MOOD** that there was enough money in the plan to cover it. He also expressed concern that if the time was lowered to one year, people may take the job only for insurance purposes. **REP. MOOD** replied that there was a contradiction in the bill concerning five years of service versus being a vested member of the retirement system. He told the committee that problem needed to be addressed.

SEN. FRANKLIN asked **REP. MOOD** if he would support the five years for health insurance and one year vested for the Employee Defined Contribution Retirement Plan. **REP. MOOD** replied that he would support that.

SEN. FRANKLIN asked **REP. MOOD** if he would support an amendment for health care access at five years. He responded that he would support that.

Closing by Sponsor:

REP. DOUG MOOD, HD 58, closed HB 116 by telling the committee that the intent of this bill was to bring consistency under the retirement plans.

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on March 12, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Pete Ekegren (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SR 19, 3/6/2001
Executive Action: HB 90, HB 491, HB 116, HB 374, HB 239, HB 523

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SR 19

Sponsor: **SEN. DON HARGROVE, SD 16, Belgrade**

Proponents: **None**

SEN. BUTCHER asked **Bill Steel** if the ten year limit was dropped and replaced with the 75%, would that work for them. **Bill Steel** asked "when". **SEN. BUTCHER** answered that he was referring to today. **Bill Steel** said he would like more clarification and would like to talk to his constituents, but realized there was not time for that. He added that, yes, he would like that.

SEN. HARGROVE read the letter from **Kelly Jenkins.**

SEN. ELLIOTT told the committee he wanted to help this group of people.

Motion: **SEN. ELLIOTT** moved that **HB049101.ADN BE ADOPTED.**

Discussion:

SEN. ELLIOTT said he wanted to give the opportunity to choose between 75% of the purchasing power and parallel that which was given as in PERS in HB 294 and to delete the police officer with 10 years of seniority of retirement from this bill.

SEN. ELLIOTT asked **Kelly Jenkins** if there was any reason that this bill needed to be effective on July 1 or if it would be better to go with the date of passage. **Kelly Jenkins** said his department preferred to keep everything effective on July 1 since that was their fiscal year and for administrative reasons.

Vote: Motion **AMENDMENT HB049101.ADN EXHIBIT(4) carried 7-0.**

Motion/Vote: **SEN. ELLIOTT** moved that **HB 491 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

Motion/Vote: **SEN. FRANKLIN** made a motion that **EFFECTIVE ON PASSAGE OF THE BILL AND APPROVAL. BE ADOPTED. Substitute motion carried 5-3.**

{Tape : 2; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 116

SEN. FRANKLIN expressed concern about the one year vs. the five year vesting. She was also concerned about the health insurance.

SEN. BUTCHER wondered if there should be a compromise of three years.

SEN. FRANKLIN pointed out that the career ladder in state government was different than in the private sector, with the state government career ladder being more transient.

SEN. BUTCHER asked **Kelly Jenkins** if people in the university system were vested. **Mr. Jenkins** responded that vesting in the university system worked more like an investment fund.

SEN. ELLIOTT stated that one of the dangers was that if you do something for one person, almost everyone wanted it too.

Motion: **SEN. ELLIOTT** moved to strike, **"ONE YEAR, UP TO FIVE YEARS" BE ADOPTED.**

SEN. ELLIOTT told the committee he felt they should wait until more members were present to vote on this.

EXECUTIVE ACTION ON HB 374

Motion/Vote: **SEN. FRANKLIN** moved that **HB 374 BE CONCURRED IN. Motion carried unanimously.**

EXECUTIVE ACTION ON HB 239

Motion/Vote: **SEN. HARGROVE** moved that **AMENDMENT HB023901.ADN EXHIBIT(3)BE ADOPTED. Motion carried unanimously.**

Motion/Vote: **SEN. ELLIOTT** moved that **HB 239 BE CONCURRED IN AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON HB 523

Motion/Vote: **SEN. ELLIOTT** moved that **HB 523 BE CONCURRED IN. Motion carried unanimously.**